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15 Attorneys for Plaintiffs Alarcon

16 UNITED STATES DISTRICT COURT
17 DISTRICT OF ARIZONA

18 DAVID ALARCON and NORMA ALARCON,
19 husband and wife,

20 Plaintiffs,

21 vs.

22 AMER SPORTS COMPANY, a foreign
23 corporation; MAVIC, INC., a foreign
24 corporation; JOHN DOES 1-3; ABC
25 CORPORATIONS 1-3,

26 Defendants.

NO.

COMPLAINT

(Jury Trial Demanded)

27 Come now the Plaintiffs David Alarcon and Norma Alarcon, and for their Complaint
28 against Defendants, state the following:

PARTIES AND JURISDICTION

29 1. Defendants Amer Sports Company and Mavic, Inc. are both Delaware
30 corporations, foreign to the State of Arizona, engaged in the business of conceptualizing,
31 engineering, designing, testing, manufacturing, marketing, distributing and selling bicycle
32 equipment and wheels.

2. Defendants Amer Sports Company and Mavic, Inc. do business in the State of Arizona in the form of marketing, selling and/or distributing their products in the stream of commerce and ultimately into the hands of the consuming public.

3. Plaintiffs are residents of New Mexico, but purposefully submit themselves to the jurisdiction of this Court in the District of Arizona, Tucson Division.

4. Jurisdiction is proper pursuant to 28 U.S.C. Section 1332, and the amount in controversy exceeds the minimal limit set forth by law.

5. Substantial property which is the subject of this action, in the form of Plaintiffs' bicycle and equipment, is situated and located in Tucson, Arizona, and the parties have conducted expert inspections of same in Tucson, Arizona.

6. Defendants have sufficient contacts with the State of Arizona, such that Defendants are subject to personal jurisdiction of this Court, and venue is therefore proper.

FACTUAL ALLEGATIONS

7. On or about January 22, 2008, Plaintiff David Alarcon purchased a Specialized Tarmac Expert bicycle equipped with 2006 Mavic Equipe Ksyrium wheels, rear wheel serial number 605331183.

8. Defendants engineered, tested, manufactured, distributed, and sold the subject Mavic Equipe Ksyrium wheel set.

9. Plaintiff David Alarcon took careful care of this bicycle, including all components and wheels, and maintained it appropriately and in good order.

10. At no time since taking possession of the bicycle did Plaintiff David Alarcon modify, misuse or mishandle the bicycle, wheels, or components.

11. On April 11, 2010, Plaintiff David Alarcon was riding the subject bicycle in a normal, expected and foreseeable manner, descending a mountain road in or near Cloudcroft, New Mexico.

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1 12. On that April 11, 2010 day, while Plaintiff David Alarcon was riding the subject
2 bicycle, certain components within the mechanism of the rear wheel failed, suddenly and
3 without warning, causing Plaintiff Alarcon to crash.

4 13. Subsequent inspection revealed that the "free wheel" mechanism associated
5 with the rear wheel assembly had suddenly become improperly frozen or locked, due to
6 failure of internal components and/or materials, such that the bicycle pedals were forced un-
7 naturally and unexpectedly forward, causing Plaintiff Alarcon to fall violently to the ground.
8 A "free wheel" is that component which, if working properly, allows a bicycle rider to hold his
9 or her feet still, no longer pushing the pedals, while the rear wheel is allowed to spin and
10 move forward.

11 14. Plaintiff David Alarcon suffered severe personal injuries causing him to sustain
12 bodily injury and pain and suffering, and incur medical expense and sustain other related
13 damages. Plaintiff David Alarcon has experienced physical pain and mental anguish and will
14 continue to do so in the future.

15 15. At all material times, Plaintiffs David Alarcon and Norma Alarcon were lawfully
16 married as husband and wife and were jointly supporting, consorting, and cohabitating with
17 each other. As a further direct and proximate result of the crash, plaintiffs David Alarcon and
18 Norma Alarcon lost the society, companionship, and consortium of the other.

19 **COUNT ONE – STRICT PRODUCTS LIABILITY**

20 16. Plaintiffs reallege all previous paragraphs as though fully set forth herein.

21 17. Defendants are manufacturers and sellers of products as defined by applicable
22 law.

23 18. On April 11, 2010, the date of the Mavic wheel failure, the wheels and related
24 components, were in substantially the same condition as they were when they left
25 Defendants' possession.
26

1 WHEREFORE, Plaintiffs pray for judgment in their favor and against the Defendants
2 as follows:

- 3 A. For past and future special damages including medical expenses;
4 B. For general damages;
5 C. For taxable costs incurred herein;
6 D. For pre-judgment interest on any liquidated damages;
7 E. For post-judgment interest on the entire judgment; and
8 F. For such other and further relief as this Court deems just and equitable.

9
10 DATED this 21st day of February, 2012.

11 BIAGGI & KROESE PLLC
12 - and -
13 MARQUEZ LAW FIRM, PLLC

14
15 By 

16 Kurt Kroese
17 Rosemary Marquez
18 Attorneys for Plaintiffs Alarcon
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